

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ NOV 16 2011

Handwritten: 11/16/11 (18)

BROOKLYN OFFICE

ORDER
11 CV 4807 (SLT)(LB)

-----X
WILLIAM JOHNAKIN,

Plaintiff,

-against-

NYC DEPT. OF CORRECTIONS, WARDEN CRIPPS,
CITY OF NEW YORK, COMMISSIONER DORA SCHIRRO,
INSPECTOR GENERAL ROBERT GIGANTE,

Defendants.
-----X

BLOOM, United States Magistrate Judge:

Plaintiff's application to proceed *in forma pauperis* under 28 U.S.C. § 1915 is hereby granted. The United States Marshals Service is directed to serve the summons and complaint upon defendants Warden Cripps, City of New York, Commissioner Dora Schirro, and Inspector General Robert Gigante without prepayment of fees.¹

Consent to trial and decision on this case by a United States Magistrate Judge

The parties shall advise the Court by signing the enclosed form whether they jointly consent to trial and decision on this case by me, a United States Magistrate Judge, pursuant to 28 U.S.C. § 636(c). Consent of the parties means that I may conduct all proceedings including trial of this matter and the entry of judgment in this case. The parties are free to withhold consent without adverse consequences.

If the parties consent, my decision will be entered as the decision of the Court and an aggrieved party may appeal directly to the United States Court of Appeals to the same extent and subject to the same conditions as if the decision had been rendered by a District Judge. If the parties do not consent to decision by a Magistrate Judge and a dispositive motion is referred, my decision shall be reported as a recommendation to the assigned District Judge.

Any party who disagrees with a Magistrate Judge's report and recommendation must file written objections within fourteen days to preserve their right to appeal. Upon receipt of written objections from a party within fourteen days, the assigned District Judge shall review the proposed recommendations to which the objection is made. The District Judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. If a Magistrate


¹ Although plaintiff names the New York City Dept. of Corrections as a defendant in this action, the New York City Charter provides that all claims against agencies are claims against the City. N.Y.C. Charter Ch. 17 § 396; see also Woodward v. Morgenthau, 740 F. Supp. 2d 433, 440 (S.D.N.Y. 2010) (Department of Corrections, as an agency of the City, is not a suable entity). Therefore, the Clerk of Court shall issue a summons for the City of New York, not the Department of Corrections.

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Judge's report and recommendation is accepted by the assigned District Judge, the decision shall be entered and an appeal shall lie to the United States Court of Appeals.

This information regarding the availability of a Magistrate Judge to hear the entire case on consent of the parties is not meant to, in any way, interfere with the parties' absolute right to decision by a United States District Judge. This is an option available to the parties which may expedite adjudication of this case and preserve scarce judicial resources.

SO ORDERED.


LOIS BLOOM
United States Magistrate Judge

Dated: November 14, 2011
Brooklyn, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____X

___-CV-___ (X)

- against -

_____X

CONSENT TO MAGISTRATE JUDGE TRIAL

We hereby consent to have the above-captioned action assigned to a United States Magistrate Judge for all purposes including trial and entry of judgment.

We acknowledge that any appeal from civil cases tried by magistrate judges with the consent of the parties will be heard only in the United States Court of Appeals. 28 U.S.C. § 636(c)(3).

Plaintiff or Counsel for Plaintiff

Defendant or Counsel for Defendant

SO ORDERED.

Brooklyn, New York
Dated: